

COVID – 19 GUIDANCE MASTERS’ COURTS

CHANCERY AND PROBATE

26 October 2021

The work of the Chancery and Probate Master will continue in accordance with the arrangements and procedures set out below until further notice.

This guidance replaces the Chancery and Probate guidance published on 1 July 2021 and guidance in relation to Order 88 Business published on 1 July 2021

KEY CHANGES TO PREVIOUS GUIDANCE

Chancery

- With effect from 1 November 2021, all Notices of Appointments in O88 actions (New and Reactivated) will be listed for a hybrid hearing before the Master.

Probate

- Guidance in relation to applications for Grants of Probate or Administration has been removed. Applicants should in future refer to the [Consolidated Probate Practice Direction \(2021\) – Practice Direction 03/21](#) and [Probate Online NI](#).

CHANCERY

ORDER 88 BUSINESS

Originating Summonses

1. The Master has directed that new **Order 88 originating summonses** will be permitted to issue. A copy of the Housing Rights leaflet should be served with the summons.

Notices of Appointment

2. With effect from 1 November 2021, all O88 actions (new and reactivated business) will be listed for a hybrid¹ hearing before the Master. Parties should attend the hearing **in person** or by **electronic means** (Normally Webex).

¹ A hybrid hearing is a hearing at which some participants attend court remotely and others attend court in person

3. Unless the court directs otherwise, the parties to an action shall be given at least six weeks' notice of the hearing date. The plaintiff's solicitor must serve the notice together with the advice leaflet from Housing Rights, and in their covering letter explain that if the defendant wants to avail of the opportunity to attend via electronic means they should email the Chancery office chanceryoffice@courtni.gov.uk in advance of the court date.

Providing Information as to the Effect of the Pandemic

4. In any action (whether a new action or a stayed action), at least 21 days prior to the hearing date, the requesting party must –

- a. lodge an affidavit setting out –
 - i. where the Plaintiff is the requesting party, what knowledge the Plaintiff has as to the effect of the Coronavirus pandemic on the defendant and their dependants;
 - ii. where the Defendant is requesting party, the effect of the Coronavirus pandemic on the Defendant and their dependants;
 - iii. the position regarding arrears prior to March 2020 and since March 2020;
 - iv. whether the defendant has had a payment deferral period;
 - v. details of the defendant's current circumstances, to include any vulnerability and whether they are or are known by the Plaintiff to be 'shielding';
 - vi. details of any engagement between the parties and proposals put forward by the defendant;
 - vii. serve the affidavit on any other party to the action; and
 - viii. lodge a certificate of service with the Court Office.

5. If a party to an action does not agree with any of the matters advanced under paragraph 4 (a)(i) to (vi) they must –

- a. at least 5 days before the initial review hearing, lodge a replying affidavit setting out areas of disagreement;
- b. serve the affidavit on any other party to the proceedings; and
- c. lodge a certificate of service with the Court Office.

6. The Master may direct at the initial and any subsequent adjourned hearings such further affidavit evidence as the Master considers appropriate

7. The Master when dealing with possession proceedings shall take account into all circumstances, including the guidelines issued by the Department for Communities during this period of public health emergency.

Adjournments

8. Requests for adjournments if agreed, will be dealt with administratively by the court office and adjourned to a future O88 summons Court.

Final Orders

9. The Master will only make final orders in cases where he is satisfied that it is right to do so. If he has any concerns whatsoever about prejudice and the fairness of the process he will simply adjourn the case. Solicitors should check ICOS to confirm adjournment dates and must inform the defendant if he /she was not in attendance.

INTERLOCUTORY SUMMONSES

10. The court will deal with new summonses **administratively** (on the papers/written submissions) therefore parties **must not** attend court on the date which appears on the summons.

11. Parties should collaboratively (where possible) complete and file form **ChanCI2** together with an agreed order or where there is a difference of opinion between the parties as regards what directions should issue, the parties, if they agree, should file brief written submissions indicating their respective positions. This information must be lodged by email with the Chancery Office (chanceryoffice@courtsni.gov.uk) **at least 5 days** before the court date. The subject line of your email should state "**Chancery Master's Interlocutory Summons Court (Administrative) – on (insert court date)**".

12. If the defendant is not legally represented, the party issuing the summons will be responsible for providing a copy of this guidance with the summons.

13. Where a Form **ChanCI2** containing the requisite information is not provided by the due date, the summons may be **Struck Out**.

Adjournments

14. Requests for adjournments if agreed, will be dealt with administratively by the court office and adjourned to a future summons Court, unless a hearing date has been fixed.

Urgent Business

15. The Master will continue to expedite the listing of urgent business where genuine urgency is demonstrated.

Contested Summonses

Disposal of contested summonses – On the Papers

16. Subject to consideration of any objection by the parties, the Master will continue to deal with straightforward contested summonses for such relief as discovery, outstanding replies, joinder applications, leave to amend pleadings and similar applications, on the papers. He will also, in appropriate cases, at the request of or with the agreement of the parties, deal with all or part of more complex summonses on the papers.

17. The party who issued the summons will be responsible for providing the court with case management directions and a complete **electronic trial bundle**. The electronic document must be numbered in ascending order throughout. Pagination should begin with the first page of the first document and should be continued throughout the entire series of documents. The index page must be hyperlinked to the pages or documents to which it refers.

18. In the more complex summonses, bundles must include detailed written submissions together with bundles of authorities (subject to any direction by the Master as to the filing of hard copy bundles).

19. In the more straightforward summonses, the parties may file short written submissions (authorities will generally not be required). For the purpose of taxation of costs, summonses dealt with on the papers which include counsels' written submissions will be certified for counsel.

Disposal of contested Summonses – Hearing required

20. If there is a need for the matter to be resolved by a hearing, the Master will facilitate a hearing via one of the following options:

- Remote Hearing (using Sightlink or WebEx)
- Live Hearing
- Hybrid Hearing (partly remote /partly live)
- Telephone Conference.

21. Where the Master determines that a contested summons will be dealt with via a remote, live or hybrid hearing or a telephone conference, the party who issued the summons will be responsible for providing the court with case management directions and a complete **electronic trial bundle**. The directions referred to above for the filing of electronic bundles will apply to such summonses.

22. Parties should note that any live hearings will be strictly timetabled and capacity within the Masters Chambers and the Masters Courtroom will be restricted

to ensure compliance with social distancing requirements and advice from the Public Health Agency,

EX-PARTE APPLICATIONS

23. The Master will deal with ex parte applications on the papers and if necessary give directions for any further submissions to be made either in writing or orally.